

Date Issued: February 8, 1984 (AGO 84-11)

Requested by: J. M. Vukelic  
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- QUESTION PRESENTED -

Whether the fee for filing a statement of claim on severed minerals that incorporates by reference an attached listing of numerous legal descriptions should be determined pursuant to section 11-18-05(1)(a) or section 11-18-05(1)(b) of the North Dakota Century Code.

- ATTORNEY GENERAL'S OPINION -

It is my opinion that the fee for filing a statement of claim on severed minerals that incorporates by reference an attached listing of numerous legal descriptions should be determined pursuant to section 11-18-05(1)(a), N.D.C.C.

- ANALYSIS -

Section 11-18-05, N.D.C.C., provides in part as follows:

11-18-05. FEES OF REGISTER OF DEEDS. The register of deeds shall charge and collect the following fees:

1. For recording an instrument affecting title to real estate:
  - a. Deeds, mortgages, and all other instruments not specifically provided for in this subsection, five dollars for the first page and two dollars for each additional page.
  - b. Multipurpose mortgages or mineral instruments which contain additional mortgages or mineral instruments, five dollars for the first page and two dollars for each additional page plus three dollars for each additional mortgage or mineral instrument described therein.

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The fee for filing a statement of claim on severed minerals is not specifically provided for in section 11-18-05(1), N.D.C.C. Therefore the fee should be determined pursuant to the provisions of section 11-18-05(1)(a), N.D.C.C. That section provides a fee of five dollars for the first page and two dollars for each additional page.

A statement of claim on severed minerals is not a multipurpose mortgage or mineral instrument containing additional mortgages or mineral instruments as provided in section 11-18-05(1)(b), N.D.C.C. Simply because a statement of claim lists numerous tract descriptions on a separate schedule does not mean that it is a multipurpose instrument or that each tract described constitutes a separate mineral instrument. It is all one instrument.

- EFFECT -

This opinion is issued pursuant to section 54-12-01, N.D.C.C. It governs the actions of public officials until such time as the question presented is decided by the courts.

ROBERT O. WEFALD  
Attorney General

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